

# *The Natural Heritage Preservation Tax Credit Act of 2000*

## *Program Application and Guidelines*



### Donee Information

Name of Donee: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: (    ) \_\_\_\_\_

Project Contact Person: \_\_\_\_\_

### Donor Information

Name of Primary Donor \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: (    ) \_\_\_\_\_

Primary Donor ID Number: \_\_\_\_\_

If the primary donor is an individual, please provide the Social Security Number as the primary donor ID number. If the primary donor is a nonprofit organization or a business, please provide the FEIN as the primary donor ID number.

If the primary donor is a flow through entity such a partnership or s-corporation, **EACH SECONDARY DONOR WILL NEED TO PROVIDE THE FOLLOWING INFORMATION:**

Name of secondary donor

Mailing address

Telephone Number

Secondary donor Taxpayer Identification Number

Percentage of ownership interest in the donated property

Project Location (County and nearest City) \_\_\_\_\_

Legislative Representative and District No. Senate \_\_\_\_\_ District No. \_\_\_\_\_

Assembly \_\_\_\_\_ District No. \_\_\_\_\_

A complete application must contain the following three sections.

### **Part I - Criteria for Acceptance of Property**

This section describes the five criteria for eligible donations. To qualify for the program, the donation must meet one or more of the specified criteria (as defined by the Act).

Following the description of each criterion is a series of questions. The questions are designed to collect information to (1) determine whether or not the donation meets the minimum eligibility requirement, (2) evaluate the merits of the donation in relation to the defined criteria and the donee's plan and (3) prioritize the donations within each criteria.

In addition, to better understand the nature of the donation, the following six questions must be answered for every donation:

1. What is the threat of habitat loss or damage facing this property?
2. How does the parcel contribute toward the goals of achieving state, regional, or community plans?
3. Will this tax credit be used to leverage other resources, and if so how?
4. Does the donation result from, or will it help foster a new or ongoing partnership, which will enhance the resource benefits to be obtained from the donation? Whom are the partners associated with this donation?
5. Does this donation contribute toward the resolution of a land use controversy outside of the regulatory process? If so, how?
6. According to the Act, easements are the preferred method to protect agricultural and habitat values. If this parcel reflects a donation of the fee value, please explain why a donation in fee is preferred to a donated easement.

The evaluation process will be conducted in a manner that takes into consideration and balances the donee's plan and the program's stated intent and objectives. Donations will be selected that collectively meet the intent of the program, distribute the tax credit on a statewide basis and distribute the tax credit across all five criteria. Priority will be given to donations designed to protect unprotected resources.

### **Part II - Donor and Donee Certifications**

The Act requires various certifications on the part of the donor and donee. As such, the application contains required certifications that must be completed.

### **Part III - Required Attachments**

Part III contains a list of required supplemental information. Some of the information is required pursuant to the provisions of the Act and the remaining is necessary for staff to evaluate and prepare recommendations for the Board's consideration. The donee and donor are encouraged to work together to complete this application package.

**PART 1**  
**Criteria for Acceptance of Property**

**Statutory Plans**  
**Public Resources Code**  
**Section 37015 (a)**

*“The property will meet the goals of a habitat conservation plan, multi species conservation plan, natural community conservation plan, or any other similar plan subsequently authorized by statute that is designed to benefit native species of plants and animals and development, including but not limited to, protecting forests, old growth trees, or oak woodlands.*

*If this criteria is used, the recovery benefits of listed species, the habitat value of the property, the value of the property as a wildlife corridor, and similar habitat-related considerations shall be the criteria on which the acceptance is based.”* Please describe how the donation meets this criteria and answer the following questions:

**Selection Guidelines**

1. What is the range of benefits provided by this property or by this property in combination with sites already under public (or nonprofit) ownership or management?
2. How does this property meet the goals of the habitat conservation plan, multi species conservation plan, natural communities’ conservation plan, or other similar plans, and what species of plants and animals will benefit?



**Corridors, Wetlands, Waterfowl, Rivers, Streams, Native Plants**  
**Public Resources Code**  
**Section 37015 (b)**

*“The property will provide corridors or reserves for native plants and wildlife that will help improve the recovery possibilities of listed species and increase the chances that the species will recover sufficiently to be eligible to be removed from the list, or will help avoid the listing of species pursuant to CESA and FESA, or will protect wetlands, waterfowl habitat, or river or stream corridors, or promote the biological viability of important California species.”* Please describe how the donation meets this criteria and answer the following questions:

**Selection Guidelines**

1. How does the parcel protect plant, wildlife habitat, corridors or connectivity?
2. What type of habitat does this parcel protect and what species will benefit?
3. How does the parcel contribute toward meeting the goals of an existing Federal State, regional, or community plan for the recovery of species, protection of the viability of species or the protection of wetlands, waterfowl habitat or stream or stream corridors?
4. How does the parcel contribute toward the goals of achieving state, regional, or community plans?

**Agricultural Lands  
Public Resources Code  
Section 37015 (c)**

*“The property interest is a perpetual conservation easement over agricultural land, or is a permanent contribution of agricultural land that is threatened by development and is located in an unincorporated area certified by the secretary to be zoned for agricultural use by the county. Property shall be accepted pursuant to the California Farmland Conservancy Program Act, the agricultural conservation program of the Coastal Conservancy, or the Bay Area Conservancy program.”* Please describe how the donation meets this criteria and answer the following questions:

**Selection Guidelines**

1. Why is the productivity of this land important for protection?
2. What is the nature of local governmental support and other project partners for protecting this land?
3. What are the multiple resource values associated with this land?
4. What is the degree of urban threat facing this land?
5. How does this donation contribute toward the preservation of local or regional agricultural operations?

**Water Rights  
Public Resources Code  
Section 37015 (d)**

*“The property interest is a water right, or land with an associated water right and the contribution of the property will help improve the chances of recovery of a listed species, will reduce the likelihood that any species of fish or other aquatic organism will be listed, pursuant to CESA or FESA, or will improve the protection of listed species, or will improve the viability and health of fish species of economic importance to the State.”* Please describe how the donation meets this criteria and answer the following questions:

**Selection Guidelines**

1. What type of water right is proposed for donation?
2. Which species or water associated organisms will benefit from this donation?
3. What quantity of water (expressed in acre feet) or flow of water (expressed in cfs) is associated with the donated water right?
4. Are there any claims or disputes associated with this water right?
5. How will this donation improve the chances of recovery of a listed species; reduce the likelihood that a species of fish or other aquatic organism will be listed; improve the protection of a listed species; or improve the viability and health of fish species of economic importance to the state?
6. How will this water be used after it has served the environmental purposes for which it was donated?
7. What provisions will be in place to ensure the donated water is used for purposes consistent with the intent of the donation and Act?
8. Please attach any written comments from the State Water Resources Control Board reflecting their opinion regarding this donation.

**Park, Open Space, Public Access**  
**Public Resources Code**  
**Section 37015 (e)**

*“The property will be used as a park or open space or will augment public access to or enjoyment of existing regional, or local park, beach, or open-space facilities, or will preserve archaeological resources.”* Please describe how the donation meets this criteria and answer the following questions:

**Selection Guidelines**

1. What is the existing or potential statewide, regional or community significance associated with this parcel?
2. What if any, are the historic values associated with this parcel?
3. What are the plant, wildlife, cultural or community resource values that are of statewide significance associated with the parcel?
4. What are the unusual or important attributes of this parcel that make it desirable as a park or open space land, or as access to existing regional or local park, beach, or open-space facilities; or of high priority for preservation for archaeological resources?

## PART II

### Donor and Donee Certifications

The following section contains certifications required of the donee and/or the donor. Please review and certify each item as to its accuracy. If the primary donor is a flow through entity such as a partnership or S corporation, **each secondary donor** will need to certify the applicable information.

1. **The donor hereby certifies that no valuable consideration was received in addition to the requested state tax credit. This certification does not apply to any federal tax considerations that may be received as a result of the donation.**

Donor Certification \_\_\_\_\_ Date: \_\_\_\_\_

Donee Certification \_\_\_\_\_ Date: \_\_\_\_\_

2. **The donor hereby certifies that the donation of property satisfies the requirements for a qualified contribution pursuant to Section 170 of Title 26 of the United States Code.**

Donor Certification \_\_\_\_\_ Date: \_\_\_\_\_

Donee Certification \_\_\_\_\_ Date: \_\_\_\_\_

3. **The donor and donee hereby certify the donation was not made to satisfy a condition imposed upon the donor by any lease, permit, license, certification, or other entitlement for use issued by one or more public agencies, including, but not limited to, the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration required by the California Environmental Quality Act.**

Donor Certification \_\_\_\_\_ Date: \_\_\_\_\_

Donee Certification \_\_\_\_\_ Date: \_\_\_\_\_

**Donor and Donee Certifications, continued**

**4. The donor and donee hereby certify that there has been no release or threatened release of a hazardous material on the property, unless all of the following occur:**

- **A final remedy in response to the release has been approved by the Department of Toxic Substances Control, or the appropriate California regional water quality board.**
- **The donor and donee have agreed to implement the above-mentioned final remedy.**
- **The donor and donee have agreed to fund and have made adequate funding available to pay for the response action.**

Donor Certification \_\_\_\_\_ Date: \_\_\_\_\_

Donee Certification \_\_\_\_\_ Date: \_\_\_\_\_

**5. The donee shall certify the acceptance of donated lands that contain hazardous materials poses no substantial risk of liability and that the donee concurs with the findings from the Department of Toxic Substances Control and the California regional water quality control board. Donee further agrees to include as an attachment to this application, copies of the written findings.**

Donee Certification \_\_\_\_\_ Date: \_\_\_\_\_

**6. Designated Nonprofit Certification**

I hereby certify that \_\_\_\_\_, has been designated to accept  
(Name of nonprofit organization)

this donation on behalf, and in lieu of \_\_\_\_\_.  
(Name of governmental entity)

\_\_\_\_\_  
(Name of authorized donee representative) Date \_\_\_\_\_

## **Part III**

### **Required Attachments**

The following list of documents must be attached to the application package:

1. A property map depicting the location of the donation on a 7.5 minute USGS topographic map.
2. A copy of the Donee's plan as described on page 6, and required by Public Resources Code Section 37012 (a).
3. Notification of the Public Hearing and minutes of the Public Hearing as described on pages 6 and 7, and required by Public Resources Code Section 37012 (d).
4. Full narrative addressing public access, setback and buffer requirements as described on pages 7 and 8, and required by Public Resources Code Section 37023 and Section 37025.
2. Complete, Self-Contained Appraisal Report, establishing the fair market value of the property that is prepared in conformance with The Uniform Standards of Professional Appraisal Practices (USPAP). In addition to any other USPAP reporting requirements, the appraisal report **must contain the following**:
  - Title page with sufficient identification of appraisal project.
  - Letter of transmittal summarizing important assumptions and conclusions, value estimate, date of value, date of report, etc.
  - Table of contents.
  - Assumptions and Limiting Conditions.
  - Description of the scope of work, including the extent of data collection and limitations, if any, in obtaining relevant data.
  - Definition of Fair Market Value, as defined by California Code of Civil Procedures, Section 1263.320.
  - Photographs of property, including photographs of any significant physical features.
  - Copies of Assessor's plat maps with the subject parcels marked, and where practical, an assemblage of all Assessor's parcel numbers depicting the entire ownership.
  - The legal description of the subject property.

- For large, remote, or inaccessible parcels, provide aerial photographs or topographical maps depicting the subject boundaries.
- Sale history of subject property.
- Discussion of any current Agreement of Sale, option or listing of subject.
- Regional, area and neighborhood analyses.
- Market conditions and trends including identification of the relevant market, a discussion of supply and demand within the relevant market area (or other areas of competition), and a discussion of the relevant market factor impacting demand for site acquisition and leasing within the relevant market area.
- Discussion of subject land/site characteristics (size, topography, current use, zoning and land use issues, development entitlements, General Plan designations, utilities, offsite improvements, access, easements and restrictions, flood and earthquake information, toxic hazards, taxes and assessments, etc.)
- Subject leasing and operating cost history.
- Opinion of highest and best use of subject property, and reasoning in support of the opinion in the depth and detail required by its significance to appraisal. Such support typically requires a discussion of the four criteria or tests utilized to estimate the highest and best use of a property. If alternative feasible uses exist, explain and support market, development, cash flow, and risk factors leading to an ultimate highest and best use.
- All approaches to market value applicable in the subject market. Explain and support the exclusion of any usual approaches to value.
- Map(s) showing all comparable properties in relation to subject property.
- Photographs and plat maps of comparable properties.
- In depth discussion of comparable properties, and direct comparisons to subject property.
- Comparable data sheets. For sales, include significant information such as grantor/grantee, sale/recordation dates, financing, conditions of sale, buyer motivation, sufficient location information (street address, post mile, and/or distance from local landmarks such as bridges, road intersections, structures, etc.), land/site characteristics, improvements, source of any allocation of sale price between land and improvement, and confirming source. For leases, include significant information such as lessor/lessee, lease date and term, type of lease, rent and escalation, expenses, size of space leased, tenant improvement allowance, concessions, use restrictions, options, and confirming source.



- Discussion of construction methodology, data source used, costs included and excluded, depreciation methodology utilized, a discussion of accrued depreciation from all causes, and remaining economic life.
  - Copies of construction cost data including, section and pages of cost manual (date of estimate or date of publication of cost manual must be provided if not indicated on page), copies of cost estimate if provided from another source, and supporting calculation including worksheets or spreadsheets.
  - In part-take situations, a discussion of severance damage (or lack of it).
  - Effect of title exceptions on fair market value.
  - Implied dedication statement.
  - Reconciliation and final value estimate. Explain and support conclusions reached.
  - Discussion of any departures taken in the development of the appraisal.
  - Signed certification.
6. Preliminary Title Report to be supplied by Donee
  7. Proposed Grant Deed conveying property to Donee.
  8. Copy of any agreement for conveyance of the donated property.
  9. Escrow Instructions. Upon close of escrow, the property must be accepted free and clear of all property taxes and supplemental taxes, judgments, liens and other loans against the property.

## **Appendix B**

### **Resource Agency Departments and Conservancies Eligible State Donees**

#### **Secretary of Resources Agency**

Mary D. Nichols, Secretary  
1416 Ninth Street, Room 1311  
Sacramento, California 95814  
916-653-5656

#### **Wildlife Conservation Board**

1807 13<sup>th</sup> Street, Suite 103  
Sacramento, California 95814  
916-445-8448

#### **California Coastal Commission**

Peter Douglas, Executive Director  
45 Fremont Street, Suite 2000  
San Francisco, California 94105  
415-904-5200

#### **Colorado River Board of California**

Gerald Zimmerman, Executive Director  
770 Fairmont Avenue, Suite 100  
Glendale, California 91203-1035  
818-543-4676

#### **Department of Fish and Game**

Robert C. Hight, Director, Room  
1416 Ninth Street  
Sacramento, California 95814  
916-653-7667

#### **Department of Parks and Recreation**

Rusty Areias, Director  
1416 Ninth Street, Room 1057  
Sacramento, California 95814  
916-653-8380

#### **Department of Conservation**

Darryl W. Young, Director  
801 K Street, 24<sup>th</sup> Floor  
Sacramento, California 95814  
916-322-1080

**Department of Water Resources**

Thomas M. Hannigan, Director  
1416 Ninth Street  
Sacramento, California 95814  
916-653-7007

**California Coastal Conservancy**

William R. Ahern, Executive Director  
1330 Broadway, Suite 1100  
San Francisco, California 94612  
510-286-1015

**California Tahoe Conservancy**

Dennis Machida, Executive Officer  
2161 Lake Tahoe Blvd., Suite 2  
South Lake Tahoe, California 96150  
530-542-5580

**Santa Monica Mountains Conservancy**

Joseph T. Edmiston, Executive Director  
5750 Ramirez Canyon Road  
Malibu, California 90265  
310-589-3200

**Coachella Valley Mountains Conservancy**

Bill Havert, Executive Director  
45480 Portola Avenue  
Palm Desert, California 92260  
760-776-5026

**San Gabriel and Lower Los Angeles Rivers & Mountains Conservancy**

Mary Angle, Executive Officer  
900 South Fremont Avenue, 11<sup>th</sup> Floor  
Alhambra, California 91803-1331

**San Joaquin River Conservancy**

Mike Crow, Staff Counsel  
5469 E. Olive Avenue  
Fresno, California 93727